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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/649,831

08/28/2003

Hershey Friedman

15905-2US PJF/rl

6645

20988

7590

04/20/2006

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EXAMINER

HYLTON, ROBIN ANNETTE

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 04/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary	Application No.	Applicant(s)	
	10/649,831	FRIEDMAN, HERSHEY	
	Examiner	Art Unit	
	Robin A. Hylton	3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 9-16 and 18-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings were received on January 6, 2006. These drawings are approved.

Election/Restrictions

2. Claims 9-16 and 18-24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on January 17, 2006.

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Kanada et al. (US 3,640,381).

Kanada teaches a bag having a gusseted bottom, the sheet folded at the bottom to provide two opposing side walls, and a metal treaded side facing outwardly (see figures 12,13,15,16,18, or 19).

5. Claims 1 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Larkin et al. (US 5,860,743).

Larkin teaches a bag having an aluminum sheet cover with a plastic material (column 6, lines 35-36) and having a gusseted bottom formed by folding the sheet (column 3, lines 12-14).

The end portions of the gusset are angled relative to the gusted bottom edge (including an angle of 90°).

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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7. Claims 1-4, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osgood (US 5,074,675) in view of Tsuboi (JP 5-178355).

Osgood teaches a bag of flexible, foldable material, the material being a sheet of plastic coated with aluminum, the bag having a gusseted bottom portion. Osgood teaches at column 5, lines 14-18 that the bag can be formed with metallized aluminum over the entire surface, but results in poor performance of the bottom gussets edge seals in automatic filling machines. Thus, Osgood does not teach the bottom portion comprising angled edges bonded together.

Tsuboi teaches it is known to provide a bag with a gusseted bottom portion comprising angled edges bonded together.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of a bottom portion comprising angled edges bonded together to the bag of Osgood. Doing so allows for complete expansion of the gusseted bottom portion and enables the bag to be used in automatic filling machines.

With respect to claims 3 and 4, the angled edges of the bag of Tsuboi 45 degrees.

8. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claim 1 above, and further in view of Gruentzel et al. (US 3,485,437).

Osgood as modified teaches the claimed bag except for an exposed portion proximal the top edge of the bag and apertures proximal to a top edge of the bag.

Gruentzel teaches a bag having for an exposed portion proximal the top edge of the bag and apertures proximal to a top edge of the bag.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further apply the teaching of an exposed portion proximal the top edge of the modified bag of Osgood and apertures proximal to a top edge of the bag. Doing so allows the bag to be used in automatic filling machines.

Response to Arguments

9. Applicant's arguments filed January 17, 2006 have been fully considered but they are not persuasive.

Applicant argues the combination of Osgood and Tsuboi does not render the claims obvious because Tsuboi teaches an additional sheet in the gusseted bottom of the bag. This is not persuasive since the claims do not preclude an additional sheet. Additionally, Tsuboi does not teach an additional sheet. More importantly, the structure of the bag is met since the bag is formed of a sheet folded at the bottom to form a gusset clearly seen in figure 1. Thus, contrary to applicant's assertion that the bottom is a piece separately formed from the side walls of the bag, the bottom (2) is indeed an integrally formed portion of the bag. Applicant is reminded that Tsuboi is used only for its teaching of providing the gusseted ends at an angle of 30-60° relative to the gusseted bottom edge.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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11. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

12. It is called to applicant's attention that if a communication is faxed before the reply time has expired, applicant may submit the reply with a "Certificate of Facsimile" which merely asserts that the reply is being faxed on a given date. So faxed, before the period for reply has expired, the reply may be considered timely. A suggested format for a certificate follows:

I hereby certify that this correspondence for Application Serial No. _____ is being facsimiled to The U.S. Patent and Trademark Office via fax number 571-273-8300 on the date shown below:

Typed or printed name of person signing this certificate

Signature _____

Date _____

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robin Hylton whose telephone number is (571) 272-4540. The examiner can normally be reached Monday - Friday from 9:00 a.m. to 4:00 p.m. (Eastern time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse, can be reached on (571) 272-4544.

Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199
- Internet PTO-Home Page <http://www.uspto.gov>

RAH
April 17, 2006

A handwritten signature in black ink, appearing to read 'RAH', with a stylized flourish extending to the right.

Robin A. Hyton
Primary Examiner
GAU 3727

Approved



Application No. 10/649,831
Amendment dated Oct. 13, 2005
Reply to Office Action of July 22, 2005
Replacement Sheet

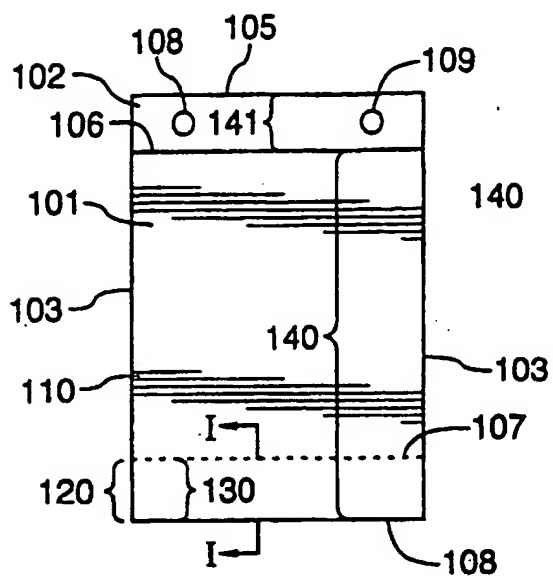


FIG. 1
Prior Art

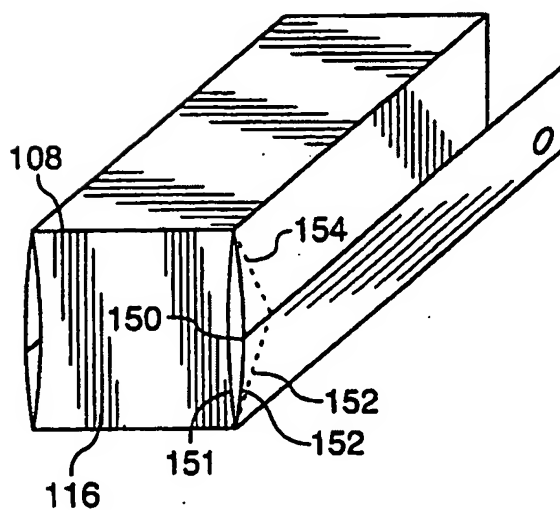


FIG. 2
Prior Art

Approved Oct

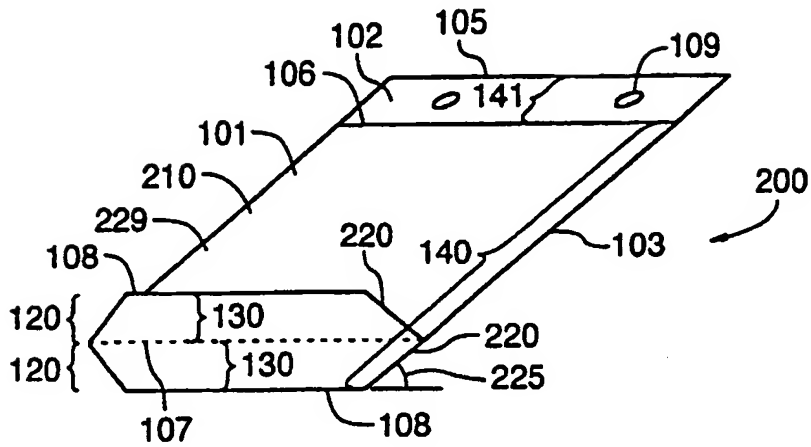


FIG. 3

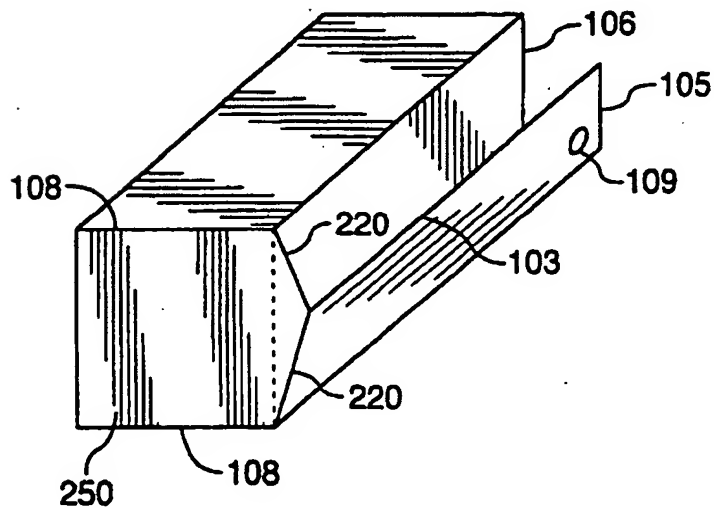


FIG. 4